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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,553	03/19/2002	Motoya Iwasaki	A253-1	6682
21254	7590	11/22/2004		
MCGINN & GIBB, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			EXAMINER DEPPE, BETSY LEE	
			ART UNIT	PAPER NUMBER
			2637	

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	<b>Application No.</b> 10/088,553	<b>Applicant(s)</b> IWASAKI, MOTOYA	
	<b>Examiner</b> Betsy L. Deppe	<b>Art Unit</b> 2637	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 28 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See attachment.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☒ Newly proposed or amended claim(s) 1,3,21,22,27 and 29 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☒ The drawing correction filed on 28 October 2004 is a) ☒ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
 Betsy L. Deppe  
 Primary Examiner  
 Art Unit: 2637

### ADVISORY ACTION

1. The drawings were received on October 28, 2004. These drawings are approved.
2. Applicant's arguments with regard to claim 26 in the response filed October 28, 2004 have been fully considered but they are not persuasive. The rejection of claim 26 under 35 U.S.C. §112, first paragraph is maintained. Although the specification describes using a comparator, it does not describe using a comparator and a second sub-correlator as recited in claim 26. According to page 28, lines 10-12, a comparator "may be used in place of the second sub-correlator" (*emphasis added*). Therefore, the specification does not disclose using both a comparator and a second sub-correlator.
3. With regard to claims 4-6, 19, 22-24, 28 and 32 in paragraphs 12-15 of the Final Rejection mailed July 16, 2004, the rejection of claims 4-6, 18-20, 22-24, 28 and 32 are not overcome by the amendment. The limitations that the Examiner cited as rendering the claims vague and indefinite have not been amended or amended in such way as to clarify the invention. Therefore, the rejection of the respective independent claims and dependent claims 8-17, 31-33, and 35 is not withdrawn.
4. With regard to claims 19 and 20, the objection to "K correlation values transmitted from said first sub-correlator" on the last two lines (in paragraphs 4d and 4g

of the final Office Action mailed July 16, 2004) of the respective claims was not addressed in the response and is not withdrawn.

5. With regard to claim 22, the objection in paragraph 4b of the final Office Action mailed July 16, 2004 was not addressed in the response and is not withdrawn.


6. With regard to claim 30, the amendment results in a rejection under 35 U.S.C. §112, second paragraph and therefore, does not place the application in better form for appeal by materially simplifying or reducing the issues for appeal.

7. With regard to claim 36, determining the number of plurality of sub-correlators in accordance with the divisor of a predetermined length is a new issue that requires further search and/or consideration.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Betsy L. Deppe whose telephone number is (571) 272-3054. The examiner can normally be reached on Monday, Wednesday and Thursday (8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on (571) 272 - 2988. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Betsy L. Deppe  
Primary Examiner  
Art Unit 2637